38,8,9,12,25 and Execution Petitions

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CONT.CAS(C) 723/2006, W.P.(C) 9214/2006, W.P.(C) 9276/2006, W.P.(C) 13920/2006, W.P.(C) 6033/2007

AND

EXECUTION PETITIONS 180/2007, 179/2007, 184/2007, 183/2007, 181/2007, 185/2007, 186/2007, 187/2007, 252/2007, 253/2007, 254/2007, 255/2007, 256/2007, 257/2007

September 25, 2007

1. **CONT.CAS(C) 723/2006**

SATWANT KAUR ..... Petitioner

Through Mr. V.S. Rana, Mr. Avtar Singh, Advocates

versus

DINESH RAI & ORS ..... Respondents

Through Ms. Sangeeta Chandra, Advocate for the DDA.
Mr. J.K. Bhola, Advocate for Smt. Soma Wati.
Mr. R.P. Lao, Mr. Bobby Lao, Advocates for the applicants in CM 13174-75/2007.

2. **W.P.(C) 9214/2006**

SHARWAN KUMAR ..... Petitioner

Through: Mr. J.B. Ravi, Mr. J.K. Bholla, Advocates

versus

D.D.A. & ANR ..... Respondent

Through: Ms. Sangeeta Chandra, Mr. Subhash C. Budhiraja, advocates for DDA.
Mr. J.K. Bhola, Advocate for Smt. Soma Wati.

3. **W.P.(C) 9726/2006**

JAGBHUSHAN LAL ..... Petitioner

Through: Mr. J.B. Ravi, Mr. J.K. Bholla, Advocates

versus

D.D.A. & ANR ..... Respondent

Through Ms. Sangeeta Chandra, Advocate for the DDA.

Mr. V.S. Rana for DH in Execution Petition
Mr. J.K. Bhola, Advocate for Smt. Soma Wati.

4. **W.P.(C) 13920/2006**

JAGBHUSHAN LAL ..... Petitioner
Through: Mr. J.B. Ravi, Mr. J.K. Bholla, Advocates

versus

THE V.C.,D.D.A. & ANR ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.
Mr. V.S. Rana for DH in Execution Petition
Mr. J.K. Bhola, Advocate for Smt. Soma Wati.

5. **W.P.(C) 6033/2007 & CM No. 11195-96/07**

SATWANT KAUR ..... Petitioner
Through Mr. Manjit Singh Ahluwalia with Mr. Avtar Singh, Advocates

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.
Mr. J.K. Bhola, Advocate for Smt. Soma Wati.

AND

6. **Executiion Petition No. 180/2007**

SATPAL ..... Petitioner
Through Counsel for the Decree Holder

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

7. **Executiion Petition No. 179/2007**

SATPAL ..... Petitioner

Through Mr. J.K. Bhola, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

8. **Executiion Petition No. 184/2007**

RAM AVTAR ..... Petitioner
Through Mr. V.S.Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

9. **Executiion Petition No. 183/2007**

INDERJEET ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

10. **Executiion Petition No. 181/2007**

MANOJ ..... Petitioner
Through Mr.V.S. Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

11. **Executiion Petition No. 185/2007**

SANT RAM BHOLA ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

12. **Executiion Petition No. 186/2007**

SHANTI DEVI ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

13. **Executiion Petition No. 439/2007**

JOGINDER ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

D.D.A ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

14. **Executiion Petition No. 255/2007**

KARTAR SINGH ..... Petitioner
Through Mr. B.D. Sharma, advocate

versus

UOI AND ANR. ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

15. **Executiion Petition No. 254/2007**

SATPAL ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

DDA ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

16. **Executiion Petition No. 253/2007**

MADAN LAL ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

DDA ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

17. **Executiion Petition No. 252/2007**

SHANTI DEVI ..... Petitioner
Through Counsel for the D.H.

versus

DDA ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

18. **Executiion Petition No. 256/2007**

BAL KRISHAN ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

DDA ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

19. **Executiion Petition No. 257/2007**

INDERJEET BHOLA ..... Petitioner
Through Mr. V.S. Rana, advocate

versus

DDA ..... Respondent
Through Ms. Sangeeta Chandra, Advocate for the DDA.

CORAM:
Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? Yes

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

Mr. Justice S. Ravindra Bhat (Open Court)

1. These proceedings are a saga of interminable waiting, where the petitioners have lived through five decades of near limitless endurance, with the hope that they would see the end of a dark tunnel, and walk into their very own patch of sunshine. Like in many cases, their stories are intrinsically bound with the partition and its upheaval. All of them fled their homes and possessions, to arrive in Delhi. Two generations waited patiently for the Central Government to redeem a pledge made, to provide them homes. Hopefully, this order should bring the curtain down to their tale of agonizing hope.

2. The common grievance in all these cases is that the petitioners were held entitled to allotment of category 'A' plots under a scheme known as the “Gadgil Assurance Scheme” formulated by the Government of India and directed to be implemented by the Delhi Development Authority (DDA). The scheme related to rehabilitation of those who had migrated after the partition and had re-settled themselves in the city of Delhi on a particular cut off date.

3. The Gadgil Assurance Scheme was formulated pursuant to a statement before Parliament in 1970. According to the Scheme, three categories of migrants were to be allotted plots on application of differing criteria. The first, namely, Category 'A' were held entitled to 85.6 square yards plot on payment of a “pre-determined” cost. The second i.e. Category 'B' were to be allotted 25 square yards plot at pre-determined cost and the third Category 'C' were to be entitled to 25 square yards plot at current market value.

4. After initial categorisation of those entitled to allotment and issuance of individual orders, disputes arose; those determined to be eligible under Categories 'B' and 'C' approached this Court for upgradation to Category 'A'. A committee was appointed under the Chairmanship of a Retired Judge of this Court, namely, Hon'ble Mr. Justice K. Ramamoorthy to scrutinize the matter. This led to upgradation of claims of 16 of the allottees. They were entitled to be placed in category 'A'. Four more persons additionally upgraded to the same category 'A'. The break up of entitlement of various claimants thereafter worked out as follows:

Category 'A'	46
Category 'B'	21
Category 'C'	37
Total	104

5. According to the scheme, the DDA had earmarked for various plots in 8-A, WEA Karol Bagh. This led to situation whereby those with entitlements, and who had secured Court orders which had attained finality, approached this Court as well as the Civil Courts for effectuation of their rights through contempt petitions, writ petitions or execution petitions, as the case may be. Therefore, when some of these matters were listed before the Court, the DDA's position was that there were only four plots available in the area wherever the total number of claimants were 20. At that point in time, it was found necessary to have all the proceedings consolidated before the Court. Accordingly, at the request of the DDA in CM 15381/2006, 16 proceedings scattered before various Civil Courts were transferred to the file of this Court. They were all conveniently clubbed together, to be decided together.

6. The DDA thereafter mooted the proposal to carve plots from the existing areas in its possession and control so that all such Category 'A' allottees could be suitably accommodated and their entitlements worked out. The proposal was, therefore, made in that regard to the Authority. It reads as follows:

> *" 8. However, in view of the increase in the number of claimants from 26 to 46 in Cat. A, it is not feasible to accommodate all of them in the plot*

at 8A, WEA, Karol Bagh. Out of 20 persons who subsequently became eligible for Cat. A, only 4 persons could be accommodated at plot at 8A, WEA, Karol Bagh. Accordingly, balance claimants were offered alternative site at Shankar road and position also informed to the Authority vide Agenda Item No. 29/2006 (Annexure C). However, since the PDR at Shankar Road (Rs.23,088/- per sq. yes.) being higher than the rate at Karol Bagh (Rs.12.63 per sq. yds) , the concerned claimants were not willing to take allotment at Shankar Road. Various options were considered to accommodate these persons in nearby vicinity. Finally High Court of Delhi in CWP No. 15381/2006 in the case titled Satwant Kaur Vs. DDA, the following option was arrived at with a broad consensus between Petitioners and DDA:-

"All Cat. 'C' allottees are to be relocated and further allotted elsewhere. This would make the entire plot at Karol Bagh available for claimants under Cat. 'A'. In such cases all the plots can be carved out with an area of 71.12 sq. mtr. for each plot. Moreover, certain area are also left vacant which can be utilized subsequently as per priority."

It was mentioned in the Court that DDA would take the approval of the Competent Authority to the above option and also get approved the scheme insofar as of Cat. 'C' allottes are concerned in consonance with previous resolutions on the subject.

As per commitment given in the Court the plot at 8A, WEA, Karol Bagh area is required to be re-carved with a view to provide for all the claimants of Cat. 'A' and Cat. 'B'. Accordingly, Planning Department has taken the approval of the Screening Committee for the revised layout plan as under:

Category	***number of plots***	***Size***	***Area***
'A'	*30 nos. of plots already proposed in previous plan.*	*5.0 m X 14 m*	*72.5 sq. mtr. (86.63 Sq.yds.)*
	16 nos. of addl. Plots accommodated.	*5.2 m X 13.80 m*	*71.76 sq. mtr. (85.75 sq. yds)*
'B'	*40 nos. of plots accommodated*	*3.11 m X 6.90 m*	*21.45 sq. mtr. (25.63 sq. yds.)*

9. It is proposed to accommodate Cat. 'A' and Cat. 'B' claimants in 8A, WEA, Karol Bagh and Cat. 'C' may be relocated at Narela. Cat. 'B' allottees who were earlier issued allotment letters in 2002 would have to be readjusted keeping in view the modified layout plan.

PROPOSAL

1. *Adoption of option as committed before the Hon'ble High Court with a view to accommodate additional 20 claimants of Cat. 'A' at 8A, WEA, Karol Bagh, New Delhi.*
2. *Allotment of 21 numbers of plots at 8-A, WEA, Karol Bagh to Cat. 'B' claimants who have earlier been issued allotment letters for specific plots and in whose case fresh draw will have to be done.*
3. *Resettlement of 37 Cat. 'C' at Narela after cancelling the allotments already done on the basis of draw held on 14.05.2002. They may be charged as per policy of charging rates for relocation of J.J. dwellers.*
4. *Disposal of balance land at 8A, WEA, Karol Bagh left out after setting the claimants after sometime with a view to accommodate any fresh claims of allotment at 8-A, WEA, Karol Bagh, New Delhi."*

7. The above proposal was accepted by the DDA on 27th June, 2007. The relevant item, namely, No. 55/2007 was approved without any change. The said extract from the Minutes of the Meeting held on 27th June, 2007 read as follows:

"ITEM NO. 55/2007

Sub: Rehabilitation of squatters/refugees under the Gadgil

Assurance Scheme in Block 8A,WEA Karol Bagh.
S1(10)/71/OSB/Pt.

The proposals contained in the agenda item were approved by the Authority."

8. The DDA filed an affidavit subsequent to the above development and deposed that on 13th August, 2007, in the presence of two judges from outside the DDA and some representatives of the prospective allottees i.e. petitioners, a draw of lots was held and the results were made known to all the allottees.

9. Nineteen of the petitioners have filed the affidavits confirming to the fairness of the process. The lone allottee Smt. Somawati is represented by Mr. J.K. Bholla, Advocate. He states that the said allottee have no rejection to the process and would unconditionally accept the plot.

10. The relative position of the petitioners and the other allottees who had preferred executions before the civil courts and who are represented in Court and are present can be seen in the following two charts:

Table-I, list of candidates whose cases were pending before the Civil Court and from where proceedings have been transferred to this Court:

Sl. No.	Case No. Old	Case No. New	Case Title	Old Plot No.	New Allotted plot No.

1.	Ex.439/06	Ex.187/07	Joginder Singh vs. DDA	8A/T-5346	8A/31-G
2.	Ex. 440/06	Ex.185/07	Sant Ram Bhola vs. DDA	8A/T-5329/B	8A/36-G
3.	Ex. 442/06	Ex.186/07	Shanti Devi vs. DDA	8A/T-5315/2	8A/39-G
4.	Ex. 992/06	Ex.179/07	Somawanti vs. DDA	8A/T-5331	8A/46-G
5.	Ex.1578/06	Ex.254/07	Madan Lal vs. DDA	8A/T-5334	8A/27-G
6.	Ex. 1580/06	Ex.181/07	Manoj Kumar Vs. DDA	8A/T-5362	8A/29-G
7.	Ex. 1649/06	Ex.183/07	Inderjeet Singh vs. DDA	8A/T-5348	8A/38-G
8.	Ex. 1670/06	Ex.184/07	Ramavtar vs. DDA	8A/T-53	8A/44-G
9.	Ex. 1556/06	Ex.252/07	Shanti Devi vs. DDA	8A/T-5334/3	8A/34-G
10.	Ex. 131/07	Ex. 254/07	Satpal vs. DDA	8A/T-5398	8A/41-G
11.	Ex. 1518/06	Ex.180/07	Satpal vs. DDA	8A/T-5333/1	8A/30-G
12.	Ex. 1135/06	Ex.256/07	Bal Kishan vs. DDA	8A/T-5336	8A/45-G
13.	Ex. 1178/06	Ex.255/07	Pushpa Rani vs. DDA	8A/T-5355	8A/32-G
14.	Ex. 1183/06	Ex.257/07	Inderjeet Bhola vs. DDA	8A/T-5353	8A/33-G

Table-II, list of candidates whose cases are pending before this Court

Sl. No.	Case No.	Case Title	Old Plot No.	New Alloted Plot No.
1.	WPC-6033/07	Satwant Kaur vs. DDA	8A/T-5324/2	--
2.	CCP-723/06	Satwant Kaur vs. DDA	8A/T-5324/2	8A/37-G
3.	CCP-713/06	Madan Lal vs. DDA	8A/T-5323	8A/40-G
4.	WPC-9214/06	Sharawan Kumar vs. DDA	8A/T-5332	8A/35-G

5.	WPC-9726/06	Jagbhushan Lal vs. DDA	8A/T-5368	8A/43-G
6.	WPC-13920/06	Jagbhushan Lal vs. DDA	8A/T-5368	--

11. I have considered the submissions made on behalf of the parties and also considered the original file. I am satisfied that the decision made by the DDA to modify its existing proposal and ensure that all the 20 persons upgraded to Category 'A' and allotted the plots was done in a fair and transparent manner. The said allottees are represented before the Court. In view of their acceptance of the process, I am of the opinion that the decision requires to be endorsed.

12. In view of the above discussion, it is hereby declared that the draw of lots held on 13.8.2007 pursuant to which the 20 petitioners/applicants were allotted plots, (whose description is to be found in the two tables mentioned above), is in accordance with law. The DDA is directed to ensure that vacant and peaceful physical possession of the said plots are handed over to the allottees subject to their completing the formalities within 10 weeks from today.

13. Now, an epilogue. Hans Kelsen, the jurist, in his farewell address at Berkley dwelt on the notion of justice:

> *" When Jesus of Nasareth was brought before Pilate and admitted that he was a King, he said : 'It was for this that I was born, and for this that I came to the world, to give testimony for truth'. Whereupon Pilate asked 'What is truth?' The Roman Procurator did not expect and Jesus did not give, an answer to this question, for to give testimony for truth was not the essence of his mission as Messainic King./ He was born to give testimony for justice, the Justice to be realised in the kingdom of*

God, and for this justice he died on the cross. Thus, behind the question of Pilate, 'What is truty' arises, our important question, the eternal question of mankind: 'What is justice' ..... yet, this question today is as unanswered as it ever was. It seems that it is one of those questions to which the resigned wisdom applies that man cannot find a definitive answer, but can only try to improve the question."

14. One may wonder whether a promise given to a lost generation redeemed in a vastly changed world, to an entirely new generation, is justice.

15. The Court wishes to place on record its appreciation and gratitude to Ms. Sangeeta Chandra, learned counsel for the DDA, who had ably assisted in these proceedings. The Court also records its appreciation of all the counsel who assisted in the cases and tried to ensure that the petitioners get their due benefit.

16. The writ petitions, contempt proceedings and execution proceedings are disposed off in terms of the above directions

CM No. 13174-75/2007 in Contempt Petition No. 723/2006.

17. The applicants here claim their previous entitlement in Category 'B' which has since been directed to be upgraded as Category 'A' plots. Learned counsel for the DDA submitted that the directions contained in the said judgment of the learned Single Judge of this Court are being appealed against before the Division Bench. Therefore, in view of this statement, I am of the opinion that no orders are called for. It is open to the petitioners to take suitable steps for enforcement.

18. The above applications are disposed off.

S. RAVINDRA BHAT,J

SEPTEMBER 25, 2007
dkg